

**REMARKS**

In the November 12, 2008 Office Action, the Examiner noted that claims 2-34 are pending and rejected claims 2-34 under 35 USC § 103(a). In rejecting the claims, U.S. Patents 5,903,568 to Tanaka et al. (Ref. B in the December 30, 2005 Office Action); 6,182,157 to Schlener et al. (Ref. A in the November 12, 2008 Office Action); and 6,404,743 to Meandzija (Ref. A in the September 11, 2003 Office Action) were cited. Claims 17 and 30 have been amended and claims 2-34 remain under consideration. Respectfully, the rejections are traversed below.

**Rejections under 35 USC § 103(a)**

Claims 17 and 30-33 were rejected under 35 USC § 103(a) as being unpatentable over Tanaka et al. in view of Schlener et al. In rejecting these claims, the Examiner did not identify where either of Tanaka et al. and Schlener et al. discussed "state realignment" as previously recited in claims 17 (now on line 9), 30 (now on line 11) and 31 (now on line 8). Since this feature of the independent claims seems to have been ignored, the preambles of claims 17, 30 and 31 have been amended to include the term "state realignment." In addition, the phrase "where each item of state information, for which state realignment shall be performed" (e.g., claim 17, lines 5-6) has been added in each of the independent claims. As in several of the previous eight Office Actions, the Examiner apparently considers processing a request for an unspecified "service function" as taught by Tanaka et al. (see, November 12, 2008 Office Action, page 5, paragraph 3) to be sufficient teaching for one of ordinary skill in the art to know how to process a request for a "state realignment" as recited in the independent claims. As discussed below, it is submitted that what has been cited in Tanaka et al. does not constitute "state realignment" as that term is understood in the art.

As known in the art, "state realignment" is required if states that are stored in parallel in different locations become inconsistent. This may occur when a manager and an agent in different management layers of a management network, as recited in claim 17 for example, no longer are synchronized with each other, e.g., after restoration of an interruption of the connection between the manager and the agent. In large systems with many states stored in parallel in more than one location, mass realignment of all states can last very long and thus, significantly affect the performance of the management system (see, e.g., page 2, lines 27-30, of the English translation of the application).

The claims rely on a recognition of the inventors that usually most states are in a normal state and only the state(s) which deviate(s) from the normal state are important. If both the

manager and the agent agree on what is normal, it is sufficient to transmit only what deviates from its normal state and to avoid transmission of those states which are in their normal state (see, e.g., page 3, lines 31-33, of the English translation of the application). Everything which is not transmitted will be known to be in its normal state. Thus a complete state alignment can be achieved with a lot less communication required than in the prior art.

In rejecting the claims, it was asserted that Tanaka et al. is relevant prior art and that a "deviation" from a "normal" state is disclosed when "[t]he lower-layer agent 107 gives an event notification N<sub>n-1</sub> 1 produced in the managed object M<sub>n-1</sub> 1 to the lower-layer manager 106 in a step 401" (Tanaka et al., column 10, lines 45-48), where "an event notification [is] about an event that has occurred in the lower-layer agent" (Tanaka et al., column 4, lines 52-54). Nothing was cited other than column 10, lines 45-48 regarding where Tanaka et al. disclosed "comparing by the agent, the state information stored by the agent for deviation from a normal state of the state information" (claim 30, lines 12-13). It is submitted that column 10, lines 45-48 of Tanaka et al. does not describe the operation recited on lines 12-13 of claim 30 and nothing has been cited in Tanaka et al. that teaches or suggests any operation that obtains one or more "deviations from a normal state" (claim 17, line 10 and claim 31, line 11), or the similar limitation recited on lines 12-13 of claim 30.

In the November 12, 2008 Office Action, it was acknowledged that Tanaka et al. fails to "disclose sending only deviant state information of the agent indicating the deviations from the normal state to the manager in response to the request message" (Office Action, page 4, lines 2-5). To overcome this deficiency of Tanaka et al., the November 12, 2008 Office Action asserted that column 6, lines 16-60 and column 7, lines 28-52 of Schlener et al. disclosed the operation quoted in the preceding sentence. However, the cited portion of column 7 in Schlener et al. is directed to detecting "the severity level" (column 7, line 44) when an "alarm condition exists" (column 7, line 39). It is unclear how this would suggest to one of ordinary skill in the art "sending only deviant state information" as asserted in the November 12, 2008 Office Action.

With respect to the cited portion of column 6 in Schlener et al., there is only a description of comparison and threshold threads, where "[t]he comparison thread ... is initiated on agent restart and implements the persistence aspect ... while [t]he threshold thread ... perform[s] polling and comparison functions and sending traps" (column 6, lines 23-29). While it is clear that some sort of comparison is performed by the system described in Schlener et al., it is submitted that the cited portion of column 6 in Schlener et al. does not describe what is being compared or how the comparison and threshold threads operate to "disclose sending only

deviant state information of the agent indicating the deviations from the normal state to the manager in response to the request message" as asserted at page 4, lines 2-5, of the November 12, 2008 Office Action. For the above reasons, it is submitted that the November 12, 2008 Office Action failed to set forth a *prima facie* case of obviousness of claims 17 and 30-33.

Furthermore, in the amended independent claims, it is stated that "state information ... defin[es] a state of network resources" (claims 17 and 30, lines 4-5 and claim 31, lines 3-4) and a definition is provided for "a normal state" as "one of a predefined value and a combination of predefined values" (claim 17, lines 10-11, claim 30, lines 8-9, and claim 31, lines 9-10), based in part on pages 13-14 of the English translation of the application. Nothing has been cited in either of Tanaka et al. and Schlener et al. that teaches or suggests "state information" and "a normal state," as defined in claims 17, 30 and 31, are used or operated on in any way. Therefore, it should now be clear that the claims are directed to different subject matter than are Tanaka et al. and Schlener et al.

It is submitted that even *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007) requires that "a court [or an examiner] must ask whether the improvement is more than the predictable use of prior art elements according to their established functions" 82 USPQ2d at 1396. The November 12, 2008 Office Action failed to provide such analysis in light of the differences between what is recited in the claims and what is taught by the cited references. For all of the above reasons, it is submitted that claims 17, 30 and 31, as well claims 32 and 33 which depend from claim 17, patentably distinguish over Tanaka et al. and Schlener et al.

In items 11-29 on pages 7-13, claims 2-16, 18-29 and 34 were rejected under 35 USC 103(a) as being unpatentable over Tanaka et al. and Schlener et al. further in view of Meandzija. Nothing was cited in Meandzija that overcomes the deficiencies of Tanaka et al. and Schlener et al. discussed above. Therefore, it is submitted that claims 17 and 30, as well as claims 2-16, 24-28 and 34 which depend therefrom, patentably distinguish over Tanaka et al., Schlener et al. and Meandzija for at least the reasons discussed above.

### **Other Comments**

Claim 30 has been amended to include the phrase "one of a predefined value and a combination of predefined values" as an alternative expression that means "a predefined value" or "a combination of predefined values" may be used, contrary to the holding in *Superguide v. DIRECTV*, 358 F3d 870, 69 USPQ2d 1865 (Fed. Cir. 2004).

**Request for Interview**

An Applicant Initiated Interview Request Form is submitted herewith requesting an interview prior to the next Office Action if the amendments and arguments above do not persuade the Examiner to withdraw the rejections based on Tanaka et al., Schlener et al. and Meandzija. The Examiner is respectfully requested to contact the undersigned by telephone to arrange an interview in sufficient time to permit amendment of the claims prior to issuance of the next Office Action, if further amendment of the claims is required to clarify the distinctions between the invention and the cited references.

**Summary**

It is submitted that the references cited by the Examiner do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 2-34 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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